



General Assembly

**Proposed Substitute  
Bill No. 5817**

February Session, 2008

LCO No. 3310

**AN ACT CONCERNING RESOURCE RECOVERY FACILITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1      Section 1. (NEW) (*Effective from passage*) (a) On or after December 31,  
2      2008, no owner or operator of a resources recovery facility, as defined  
3      in section 22a-207 of the general statutes, or a facility for disposal or  
4      recycling of ash residue from a resources recovery facility, shall charge  
5      a tipping fee or other fee for disposal of such municipal solid waste or  
6      ash residue at such facility in excess of the rate approved by the  
7      Department of Public Utility Control. The provisions of this subsection  
8      shall not apply: (1) To any owner or operator of a resources recovery  
9      facility or facility for the disposal or recycling of ash residue from a  
10     resources recovery facility that is (A) a quasi-public authority, political  
11     subdivision of the state, operating committee established pursuant to  
12     subsection (c) of section 22a-221 of the general statutes or regional or  
13     municipal authority, or (B) not an entity in subparagraph (A) but that,  
14     on the effective date of this section, has a written contract with an  
15     operating committee for disposing municipal solid waste or ash

16 residue at such facility and the operating committee establishes the  
17 tipping fee for disposal of solid waste or ash, provided this exception  
18 shall only apply during the term of such contract, any extension of  
19 such contract or a new written contract that does not expressly require  
20 a rate approved by the Department of Public Utility control, or (2) to  
21 any tipping fee or other fee for disposal of municipal solid waste or ash  
22 residue at such a facility set in accordance with the terms, and  
23 applicable during the term or any extension, of a written contract with  
24 a regional resources recovery authority for disposing municipal solid  
25 waste or ash residue in existence on the effective date of this section or  
26 any amendment thereof.

27 (b) Any rate approved by the Department of Public Utility Control  
28 pursuant to this section shall be just and reasonable and consistent  
29 with the following principles: (1) That the level and structure of rates  
30 be sufficient, but no more than sufficient, to allow the owner or  
31 operator to cover its operating and capital costs, to attract needed  
32 capital and to maintain its financial integrity, and yet provide  
33 appropriate protection to the relevant public interests, both existing  
34 and foreseeable; and (2) that the level and structure of rates charged  
35 customers shall reflect prudent and efficient management of the  
36 facility operation.

37 (c) Notwithstanding the provisions of subsections (a) and (b) of this  
38 section, the department may approve an interim increase in any rate if  
39 the department determines that such increase is necessary to prevent  
40 substantial and material deterioration of the financial condition of the  
41 owner or operator, to prevent substantial deterioration of the adequacy  
42 and reliability of the facility's operations.

43 Sec. 2. Section 16-1 of the 2008 supplement to the general statutes is  
44 amended by adding subsection (c) as follows (*Effective from passage*):

45 (NEW) (c) Notwithstanding any provision of the general statutes to  
46 the contrary, as used in the general statutes, the terms "utility", "public  
47 utility" and "public service company" shall include an owner or

48 operator of a resources recovery facility, as defined in section 22a-207,  
49 or a facility for disposal or recycling of ash residue from a resources  
50 recovery facility unless such owner or operator is a quasi-public  
51 authority or regional or municipal authority.

52 Sec. 3. (NEW) (*Effective from passage*) For the purposes of sections 3  
53 to 8, inclusive, of this act, an "eligible facility" means any resource  
54 recovery facility, as defined in section 22a-260 of the general statutes,  
55 for which a facility's annual revenues from electricity sales will be  
56 credited to reducing waste disposal fees paid by the participating  
57 municipalities; and a "participating municipality" means a  
58 municipality of this state that has a contract obligating it to dispose of  
59 some or all of the solid waste generated within the municipality at the  
60 eligible facility.

61 Sec. 4. (NEW) (*Effective from passage*) The seller of electrical output  
62 from an eligible facility shall be entitled to a long-term power purchase  
63 agreement, as described in sections 3 to 8, inclusive, of this act,  
64 pursuant to which the electrical output from such eligible facility shall  
65 be purchased by any political subdivision of the state serving as  
66 supplier to governmental facilities for a designated block of low-  
67 income or senior citizen customers. Such agreement shall have a term  
68 of not less than ten and not more than fifteen years and a price that is  
69 negotiated at arm's length between the seller and buyer of the electrical  
70 output, which terms and conditions shall be filed with the Department  
71 of Public Utility Control.

72 Sec. 5. (NEW) (*Effective from passage*) An eligible purchaser of the  
73 electrical output of an eligible facility including a political subdivision  
74 of the state, as set forth in section 3 of this act, may negotiate in good  
75 faith with a seller of electrical output from an eligible facility to arrive  
76 at a power purchase agreement that meets the criteria of said section 3  
77 where the parties shall submit the power purchase agreement to the  
78 department as recoverable cost from retail customers to whom the  
79 electrical output is sold.

80      Sec. 6. (NEW) (*Effective from passage*) The Department of Public  
81      Utility Control shall approve a power purchase agreement between an  
82      eligible facility and a political subdivision of the state if it concludes,  
83      after conducting a contested case proceeding, that the power purchase  
84      agreement is likely to deliver net benefits to electricity consumers over  
85      the full term of the agreement. In making its determination, the  
86      department shall individually and expressly take into account the  
87      following factors and benefits: The value of the eligible facility's  
88      capacity, energy and other ancillary electrical products compared to  
89      the market value of comparable offerings, the benefits associated with  
90      generation that consumes a renewable fuel, the benefits of fuel  
91      diversity, the benefits of consuming a fuel that is indigenous to the  
92      state and therefore less vulnerable to supply interruptions than  
93      nonindigenous fuels, the presence of contract provisions that provide  
94      an incentive for the resource recovery facility to operate efficiently, the  
95      price stability conferred by securing long-term capacity and energy  
96      pursuant to contract rather than allowing the eligible facility to  
97      participate in wholesale markets, the use of tax-exempt financing or  
98      prepayments as applicable, the benefits of supporting generation  
99      facilities that are located close to load centers, the long-term public and  
100     environmental benefits of these facilities including the reduction of the  
101     amount of waste that is disposed of in landfills and securing a long-  
102     term option for disposing of municipal solid waste relatively close to  
103     its source.

104     Sec. 7. (NEW) (*Effective from passage*) The Department of Public  
105     Utility Control shall either render a final decision concerning any  
106     proposed power purchase agreement with regard to a political  
107     subdivision of the state submitted pursuant to sections 3 to 8,  
108     inclusive, of this act within one hundred fifty days of its submission or  
109     the proposed agreement shall be deemed approved. The department's  
110     decision shall either approve or disapprove the proposed agreement. A  
111     political subdivision of the state shall execute a power purchase  
112     agreement approved pursuant to said sections within thirty days of  
113     approval.

114 Sec. 8. (NEW) (*Effective from passage*) (a) Nothing in sections 3 to 8,  
115 inclusive, of this act shall be construed to deprive the Federal Energy  
116 Regulatory Commission of any jurisdiction pursuant to applicable  
117 provisions of federal law.

118 (b) In order to reduce the costs of electricity for specially designated  
119 senior citizen and low-income residential customers or governmental  
120 entities, establish a leadership role for the state with respect to  
121 managing and controlling costs and expand the use of conservation  
122 and load management and energy efficiency measures for the state and  
123 the use of electricity consumed by specially designated senior citizen  
124 and low-income residential customers or governmental entities,  
125 specially designated residential customers or governmental entities  
126 shall have the option to participate in an integrated energy purchasing  
127 and efficiency pilot program. The integrated energy purchasing and  
128 efficiency program manager shall be the Connecticut Municipal  
129 Electric Energy Cooperative, or a wholly owned subsidiary shall be  
130 eligible to serve as the integrated energy purchasing and efficiency  
131 programs manager, with the oversight of the Department of Public  
132 Utility Control and the Energy Conservation Management Board, as  
133 provided in this section, which shall provide for the consolidated  
134 purchasing of electricity, the coordinated deployment of innovative  
135 conservation and load management and energy efficiencies to achieve  
136 the lowest reasonable total costs of energy for specially designated  
137 senior citizens and low-income residential customers or governmental  
138 entities.

139 (c) For purposes of this section:

140 (1) "Integrated energy purchasing and efficiency pilot program"  
141 means, for an initial period of five years, the provision of electric  
142 generation services to only specially designated residential customers  
143 or governmental entities in the state using the transmission or  
144 distribution facilities of an electric distribution company, regardless of  
145 whether or not such person takes title to such generation services, but

146 does not include: (A) A municipal electric utility established under  
147 chapter 101 of the general statutes, other than a participating  
148 municipal electric utility; (B) a municipal electric energy cooperative  
149 established under chapter 101a of the general statutes providing  
150 electric generation services to customers that are not specially  
151 designated residential customers or governmental entities; (C) an  
152 electric cooperative established under chapter 597 of the general  
153 statutes; (D) any other electric utility owned, leased, maintained,  
154 operated, managed or controlled by any unit of local government  
155 under any general statute or special act; or (E) an electric distribution  
156 company in its provision of electric generation services in accordance  
157 with subsection (b) of this section or, prior to January 1, 2004,  
158 subsection (c) of section 16-244c of the 2008 supplement to the general  
159 statutes;

160 (2) "Specially designated senior citizens and low-income residential  
161 customers" means any customer who is (A) (i) a senior citizen, sixty-  
162 two years of age or older, or (ii) physically disabled or blind, as  
163 defined in section 1-1f of the general statutes, and (B) a recipient of  
164 benefits under the Connecticut Energy Assistance Program or the  
165 Contingency Heating Assistance Program.

166 (d) To fulfill the purposes of this section, the department may  
167 perform all acts necessary for the negotiation, execution and  
168 administration of a contract with the Connecticut Municipal Electric  
169 Energy Cooperative under the terms as set forth in subsection (e) of  
170 this section and which are reasonably incidental to and further the  
171 needs of the state and the purposes of this section. The integrated  
172 energy purchasing and efficiency pilot program manager shall  
173 determine, in consultation with the Energy Conservation Management  
174 Board, the demand reduction and enhanced reliability initiative  
175 opportunities to reduce federally mandated congestion costs by  
176 maximizing the value of existing and new load curtailment capability  
177 in combination or coordination with existing or new distributed  
178 resources owned or operated by any state agency, and to determine

179 feasible options to establish the most desirable mechanism to monitor  
180 electric load levels and hourly energy market prices and initiate  
181 curtailment requests to achieve the objectives contemplated pursuant  
182 to this section.

183 (e) The contract with the integrated energy purchasing and  
184 efficiency pilot program manager entered into pursuant to subsection  
185 (d) of this section shall allow for the consolidation of accounts for the  
186 purchase of electric generation services, and the deployment of  
187 innovative and advanced metering at governmental entities for the  
188 optimal utilization of state facility electric services in combination or  
189 coordination with existing or new distributed resources owned or  
190 operated by any state agency.

191 (f) The costs associated with complying with the provisions of this  
192 section shall be recoverable through federally mandated congestion  
193 charges from electric distribution companies.

194 (g) The department shall authorize the total number and qualified  
195 participants for the integrated energy purchasing and efficiency pilot  
196 program and shall provide financial assurance for bad debt and  
197 nonpayment of bills of the specially designated senior citizens and  
198 low-income residential customers.

199 (h) A municipal electric energy cooperative, organized under  
200 chapter 101a of the general statutes or a legal entity comprising a  
201 project, as defined in subdivision (12) of section 7-233b of the general  
202 statutes, owned or controlled by said municipal electric energy  
203 cooperative is authorized to act as the integrated energy purchasing  
204 and efficiency program manager, pursuant to the provisions of this  
205 section, and perform the obligations authorized by this section and  
206 shall provide said municipal electric energy cooperative the authority  
207 to act consistent and not in conflict with the provisions of chapter 101a  
208 of the general statutes.

209 (i) The integrated energy purchasing and efficiency program

210 manager may enter into long-term electric generation services  
211 contracts with an eligible facility and utilize tax exempt financing  
212 supported by the state in an amount not to exceed one hundred  
213 million dollars to finance the prepayment of energy services or other  
214 properly authorized uses to achieve the lowest reasonable total cost of  
215 energy for specially designated senior citizens and low-income  
216 residential customers participating in the integrated energy purchasing  
217 and efficiency program.

218 (j) The state shall identify distributed generation facilities in the  
219 aggregate of twenty megawatts where an individual unit is less than  
220 one megawatt where such distributed generation facilities are not  
221 utilized in any ISO-NE programs, where such generation may be made  
222 available to the Integrated Energy Purchasing and Efficiency Pilot  
223 program manager to utilize in ISO-NE programs as determined  
224 appropriate by the program manager with oversight at the  
225 Department of Public Utility Control, provided such distributed  
226 generation complies with all required environmental permitting and  
227 ISO-NE metering and communication requirements.

228 (k) On January 1, 2010, and annually thereafter, the integrated  
229 energy purchasing and efficiency pilot program manager shall report  
230 to the joint standing committee of the General Assembly having  
231 cognizance of matters relating to energy on the status of the program  
232 and any recommendations.

233 Sec. 9. Subdivision (30) of subsection (a) of section 16-1 of the 2008  
234 supplement to the general statutes is repealed and the following is  
235 substituted in lieu thereof (*Effective from passage*):

236 (30) "Electric supplier" means any person, including an electric  
237 aggregator or participating municipal electric utility that is licensed by  
238 the Department of Public Utility Control in accordance with section  
239 16-245, that provides electric generation services to end use customers  
240 in the state using the transmission or distribution facilities of an  
241 electric distribution company, regardless of whether or not such



242 person takes title to such generation services, but does not include: (A)  
 243 A municipal electric utility established under chapter 101, other than a  
 244 participating municipal electric utility; (B) a municipal electric energy  
 245 cooperative established under chapter 101a providing electric  
 246 generation services to customers that are not specially designated  
 247 residential customers or governmental entities; (C) an electric  
 248 cooperative established under chapter 597; (D) any other electric utility  
 249 owned, leased, maintained, operated, managed or controlled by any  
 250 unit of local government under any general statute or special act; or (E)  
 251 an electric distribution company in its provision of electric generation  
 252 services in accordance with subsection (a) or, prior to January 1, 2004,  
 253 subsection (c) of section 16-244c of the 2008 supplement to the general  
 254 statutes.

Comment [LS1]: 16--00--0001-  
 --X; (a); (a); (30); (30); ;

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	16-1
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	16-1(a)(30)